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7  
8 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. VN 2004-2081

11 **ROGER CORPUZ TUGAS**

12 16601 Lark Avenue, No. 8  
Los Gatos, CA 95032

**A C C U S A T I O N**

13 Vocational Nurse License No. VN 171819

14  
15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this  
20 Accusation solely in her official capacity as the Executive Officer of the Board of Vocational  
21 Nursing and Psychiatric Technicians.

22 2. On or about April 21, 1995, the Board of Vocational Nursing and  
23 Psychiatric Technicians issued Vocational Nurse License Number VN 171819 to Roger Corpuz  
24 Tugas (Respondent). The Vocational Nurse License expired on August 31, 2006, and has not  
25 been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Vocational Nursing and  
28 Psychiatric Technicians (Board), under the authority of the following laws. All section

1 references are to the Business and Professions Code (Code) unless otherwise indicated.

## 2 STATUTORY PROVISIONS

3 4. Section 2875 of the Business and Professions Code (Code) provides, in  
4 pertinent part, that the Board may discipline the holder of a vocational nurse license for any  
5 reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice  
6 Act.

7 5. Section 118(b) of the Code provides, in pertinent part, that the expiration  
8 of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during  
9 the period within which the license may be renewed, restored, reissued or reinstated. Under  
10 section 2892.1 of the Code, the Bureau may renew an expired license at any time within four  
11 years after the expiration.

12 6. Section 2878 of the Code states:

13 "The Board may suspend or revoke a license issued under this chapter [the  
14 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 (1) Incompetence, or gross negligence in carrying out usual nursing functions.

17 . . . .

18 (4) The use of excessive force upon or the mistreatment or abuse of any patient.

19 For the purposes of this paragraph, 'excessive force' means force clearly in excess of that which  
20 would normally be applied in similar clinical circumstances.

21 . . . .

22 "(e) Making or giving any false statement or information in connection with the  
23 application for issuance of a license.

24 . . . .

25 "(j) The commission of any act involving dishonesty, when that action is related  
26 to the duties and functions of the licensee.

27 . . . .

28 / / /

1                   7. Title 16, California Code of Regulations, section 2518.6 (b) states, in  
2 relevant part, that a licensed vocational nurse shall adhere to standards of the profession and shall  
3 incorporate ethical and behavioral standards of professional practice which include but are not  
4 limited to the following:

5                   .....  
6                   (3) Maintaining professional boundaries with the patient/client;  
7                   .....  
8                   .....

9                   8. Title 16, California Code of Regulations, section 2519, states:

10                   "As set forth in Section 2878 of the Code, gross negligence is deemed  
11 unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'gross  
12 negligence' means a substantial departure from the standard of care which, under similar  
13 circumstances, would have ordinarily been exercised by a competent licensed vocational nurse,  
14 and which has or could have resulted in harm to the consumer. An exercise of so slight a degree  
15 of care as to justify the belief that there was a conscious disregard or indifference for the health,  
16 safety, or welfare of the consumer shall be considered a substantial departure from the above  
17 standard of care."

18                   9. Section 125.3 of the Code provides, in pertinent part, that the Board may  
19 request the administrative law judge to direct a licensee found to have committed a violation or  
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
21 and enforcement of the case.

## 22                   FACTUAL BACKGROUND

23                   10. In or about June or July, 2004, Respondent was on duty as a licensed  
24 vocational nurse at Los Gatos Oaks Convalescent Hospital in Los Gatos, California (Oaks).  
25 Respondent used a battery operated device to massage the legs and thighs of Client T.P.,<sup>1</sup> aged  
26

27  
28                   1. Initials are used in order to preserve confidentiality. Full patient names will be  
disclosed pursuant to a request for discovery.

1 eighty-five (85), without a physician's order.

2 11. In or about June or July, 2004, Respondent was on duty as a licensed  
3 vocational nurse at Oaks. Respondent placed the hand of a male client, Client D.D., aged  
4 seventy-one (71), over the groin of a female client, Client B.O., aged fifty-four (54), and made a  
5 rubbing motion with Client D.D.'s hand over the groin area of Client B.O.

6 12. In or about June or July, 2004, Respondent was on duty as a licensed  
7 vocational nurse at Oaks. Respondent placed a dirty diaper, soiled with feces, on the face of  
8 Client D.D., aged seventy-one (71), rubbing the feces onto Client D.D.'s cheek.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 13. Respondent is subject to disciplinary action under section 2878(a)(1) of  
12 the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while  
13 on duty as a licensed vocational nurse at Oaks, Respondent committed gross negligence, within  
14 the meaning of Title 16, California Code of Regulations, section 2519, as set forth in paragraph  
15 10, above.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Gross Negligence)**

18 14. Respondent is subject to disciplinary action under section 2878(a)(1) of  
19 the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while  
20 on duty as a licensed vocational nurse at Oaks, Respondent committed gross negligence, within  
21 the meaning of Title 16, California Code of Regulations, section 2519, as set forth in paragraph  
22 11, above.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Gross Negligence)**

25 15. Respondent is subject to disciplinary action under section 2878(a)(1) of  
26 the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while  
27 on duty as a licensed vocational nurse at Oaks, Respondent committed gross negligence, within  
28 the meaning of Title 16, California Code of Regulations, section 2519, as set forth in paragraph

12, above.

**FOURTH CAUSE FOR DISCIPLINE**

**(Mistreatment and/or Abuse of a Client)**

16. Respondent is subject to disciplinary action under section 2878(a)(4) of the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while on duty as a licensed vocational nurse at Oaks, Respondent mistreated and/or abused Client T.P., as set forth in paragraph 10, above.

**FIFTH CAUSE FOR DISCIPLINE**

**(Mistreatment and/or Abuse of a Client)**

17. Respondent is subject to disciplinary action under section 2878(a)(4) of the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while on duty as a licensed vocational nurse at Oaks, Respondent mistreated and/or abused Clients D.D. and B.O., as set forth in paragraph 11, above.

**SIXTH CAUSE FOR DISCIPLINE**

**(Mistreatment and/or Abuse of a Client)**

18. Respondent is subject to disciplinary action under section 2878(a)(4) of the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while on duty as a licensed vocational nurse at Oaks, Respondent mistreated and/or abused Client D.D., as set forth in paragraph 12, above.

**SEVENTH CAUSE FOR DISCIPLINE**

**(Failed to Maintain Professional Boundaries)**

19. Respondent is subject to disciplinary action under section 2878(a) of the Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while on duty as a licensed vocational nurse at Oaks, Respondent failed to maintain professional boundaries with Client T.P., in violation of Title 16, California Code of Regulations, section 2518.6(b)(3), as set forth in paragraph 10, above.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failed to Maintain Professional Boundaries)**

3 20. Respondent is subject to disciplinary action under section 2878(a) of the  
4 Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while on  
5 duty as a licensed vocational nurse at Oaks, Respondent failed to maintain professional  
6 boundaries with Clients B.O. and D.D., in violation of Title 16, California Code of Regulations,  
7 section 2518.6(b)(3), as set forth in paragraph 11, above.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Failed to Maintain Professional Boundaries)**

10 21. Respondent is subject to disciplinary action under section 2878(a) of the  
11 Code, on the grounds of unprofessional conduct, in that in or about June or July, 2004, while on  
12 duty as a licensed vocational nurse at Oaks, Respondent failed to maintain professional  
13 boundaries with Client D.D., in violation of Title 16, California Code of Regulations, section  
14 2518.6(b)(3), as set forth in paragraph 12, above.

15 **TENTH CAUSE FOR DISCIPLINE**

16 **(False Statement on Application)**

17 22. Respondent is subject to disciplinary action under section 2878(e) of the  
18 Code, in that on or about January 11, 1994 and July 20, 1994, on his "Board Applications for Re-  
19 Examination Vocational Nurse," Respondent failed to disclose the following criminal conviction:

20 a. On or about August 19, 1993, in a criminal proceeding entitled *The People*  
21 *of the State of California vs. Roger Tugas*, Municipal Court of Glendale, County of Los Angeles,  
22 State of California, Case Number 93M04833, Respondent was convicted of violating Vehicle  
23 Code section 23152(A) (driving under the influence of drugs and/or alcohol).

24 **ELEVENTH CAUSE FOR DISCIPLINE**

25 **(Act Involving Dishonesty)**

26 23. Respondent is subject to disciplinary action under section 2878(j) of the  
27 Code, in that Respondent committed an act involving dishonesty, as set forth in paragraph 22,  
28 above.

1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board issue a decision:

- 4 1. Revoking or suspending Vocational Nurse License Number VN 171819,  
5 issued to Roger Corpuz Tugas.  
6 2. Ordering Roger Corpuz Tugas to pay the Board the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 125.3;  
9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: March 17, 2009

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15 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
16 Executive Officer  
17 Board of Vocational Nursing and Psychiatric Technicians  
18 State of California  
19 Complainant  
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